

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 10 Session of 2011

INTRODUCED BY TURZAI, MUSTIO, BEAR, BENNINGHOFF, BOYD, CAUSER, CHRISTIANA, DENLINGER, DUNBAR, ELLIS, EVANKOVICH, EVERETT, FLECK, GABLER, GEIST, GILLEN, GILLESPIE, GRELL, GROVE, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, KNOWLES, KRIEGER, MAJOR, MARSHALL, METCALFE, METZGAR, MILLER, MOUL, MURT, PERRY, PYLE, RAPP, REESE, REICHLEY, ROAE, SACCONI, SCAVELLO, SCHRODER, SONNEY, STEVENSON, SWANGER AND VULAKOVICH, APRIL 26, 2011

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, APRIL 26, 2011

AN ACT

1 Amending the act of April 6, 1956 (1955 P.L.1414, No.465),
 2 entitled, as amended, "An act to promote the welfare of the
 3 people of this Commonwealth; creating Port Authorities to
 4 function in counties of the second class as bodies corporate
 5 and politic, with power to plan, acquire, construct, maintain
 6 and operate facilities and projects for the improvement and
 7 development of the port district and to borrow money and
 8 issue bonds therefor; providing for the payment of such bonds
 9 and prescribing the rights of the holders thereof; conferring
 10 the right of eminent domain on the authorities; authorizing
 11 the authorities to enter into contracts with and to accept
 12 grants from the Federal government or any agency thereof; and
 13 conferring exclusive jurisdiction on certain courts over
 14 rates and services; and authorizing the authorities to
 15 collect tolls, fares, fees, rentals and charges for the use
 16 of facilities; defining the authorities' powers and duties,
 17 and defining the port districts; granting Port Authorities
 18 the exclusive right to engage in the business of owning,
 19 operating, and maintaining a transportation system for the
 20 transportation of persons in counties of the second class,
 21 providing, when necessary, for extension of transportation
 22 systems into adjoining counties and outside of said counties
 23 as provided in the act; limiting the jurisdiction of the
 24 Public Utility Commission over Port Authorities; authorizing
 25 municipalities to make loans and grants and to transfer
 26 existing facilities; authorizing Port Authorities to enter
 27 into contracts with and to accept grants from State and local
 28 governments or agencies thereof; exempting the property and
 29 facilities of such Port Authorities from taxation and

1 limiting the time to commence civil action against said
2 Authorities," further providing for title, for legislative
3 findings, for definitions, for port authorities, for board,
4 for eminent domain, for conveyance and for integrated
5 operation; providing for exclusive jurisdiction and for
6 report; and making editorial changes.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The title of the act of April 6, 1956 (1955
10 P.L.1414, No.465), known as the Second Class County Port
11 Authority Act, amended October 7, 1959 (P.L.1266, No.429), is
12 amended to read:

13 AN ACT

14 To promote the welfare of the people of this Commonwealth;
15 creating Port Authorities to function in counties of the
16 second class as bodies corporate and politic, with power to
17 plan, acquire, construct, maintain and operate facilities and
18 projects for the improvement and development of the port
19 district and to borrow money and issue bonds therefor;
20 providing for the payment of such bonds and prescribing the
21 rights of the holders thereof; conferring the right of
22 eminent domain on the authorities; authorizing the
23 authorities to enter into contracts with and to accept grants
24 from the Federal government or any agency thereof; and
25 conferring exclusive jurisdiction on certain courts over
26 rates and services; and authorizing the authorities to
27 collect tolls, fares, fees, rentals and charges for the use
28 of facilities; defining the authorities' powers and duties,
29 and defining the port districts; granting Port Authorities
30 the [exclusive] right to engage in the business of owning,
31 operating, and maintaining a transportation system for the
32 transportation of persons in counties of the second class,
33 providing, when necessary, for extension of transportation

1 systems into adjoining counties and outside of said counties
2 as provided in the act; limiting the jurisdiction of the
3 Public Utility Commission over Port Authorities; authorizing
4 municipalities to make loans and grants and to transfer
5 existing facilities; authorizing Port Authorities to enter
6 into contracts with and to accept grants from State and local
7 governments or agencies thereof; exempting the property and
8 facilities of such Port Authorities from taxation and
9 limiting the time to commence civil action against said
10 Authorities.

11 Section 2. Section 1 of the act, amended October 7, 1959
12 (P.L.1266, No.429) and December 30, 1970 (P.L.953, No.300), is
13 amended to read:

14 Section 1. It is hereby determined and declared as a matter
15 of legislative finding:

16 (1) That a greater utilization of the rivers in the
17 Commonwealth is necessary for the increased commerce and
18 prosperity of the people of the Commonwealth.

19 (2) The increased commerce and prosperity of the people of
20 the Commonwealth require, in counties of the second class, more
21 effective coordination of the combined facilities of water,
22 rail, air and highway.

23 (3) That the expanding industrial activities of the
24 Commonwealth require the planning, designing, construction,
25 erection and operation of port facilities in counties of the
26 second class.

27 (4) That property values in counties of the second class are
28 threatened with irreparable loss for the lack of port facilities
29 available to industry.

30 (5) The crisis in industrial transportation, which threatens

1 the welfare of the Commonwealth, can be reduced by providing
2 adequate port facilities.

3 (6) That in counties of the second class there has been and
4 is an ever increasing growth in the industrial, commercial and
5 residential areas, requiring adequate and modern transportation
6 facilities [for the mass transportation of passengers].

7 (7) That the existing transportation facilities are and have
8 been unable to adequately serve the growing areas in counties of
9 the second class, to the detriment of the health, safety and
10 general welfare of the inhabitants.

11 (8) That the well-being and economic health of the counties
12 of the second class require [an integrated system of mass
13 passenger transportation] a modern transportation system.

14 (9) That it is desirable that [the] a public transportation
15 system be [combined, improved, extended and supplemented]
16 established by the creation of [authorities] an authority as
17 herein provided.

18 (10) That [the establishment of a port authority will
19 promote the public safety, convenience and welfare] it is
20 desirable that a port authority be established by the creation
21 of an authority as provided in this act.

22 (11) That it is intended that the authority created under
23 this act cooperate with [and/or acquire existing transportation
24 facilities] common carriers, that private enterprise and
25 government may mutually provide adequate port facilities and
26 transportation services for the convenience of the public.

27 (12) That it is intended that [the authorities] an authority
28 created hereunder will cooperate with all municipalities and
29 other public bodies in which [they operate] it operates so that
30 the [mass passenger] public transportation system may best serve

1 the interests of the residents thereof.

2 Therefore, it is hereby declared to be the policy of the
3 Commonwealth of Pennsylvania to promote the safety and welfare
4 of the inhabitants thereof by the creation of a body corporate
5 and politic for each second class county, to be known as The
6 Port Authority of (insert name of county), which shall exist and
7 operate for the purposes contained in this act. Such purposes
8 are hereby declared to be public uses for which public money may
9 be spent and private property may be acquired by the exercise of
10 the power of eminent domain.

11 Section 3. Section 2 of the act, amended October 7, 1959
12 (P.L.1266, No.429), September 16, 1961 (P.L.1361, No.605) and
13 December 30, 1970 (P.L.953, No.300), is amended to read:

14 Section 2. As used in this act:

15 (1) The term "authority" shall mean any body, politic and
16 corporate, created by this act.

17 (2) The term "port district" shall mean all the territory
18 within a second class county.

19 (3) The term "member" shall mean a member of the governing
20 body of an authority.

21 (4) The term "board" shall mean the governing body of an
22 authority.

23 (5) The term "bonds" shall mean and include the notes,
24 bonds, refunding bonds, and other evidences of indebtedness or
25 obligations which the authority is authorized to issue, pursuant
26 to section five of this act.

27 (6) The term "construction" shall mean and include
28 acquisition and construction, and the term "to construct" shall
29 mean and include to acquire and to construct all in such manner
30 as may be deemed desirable.

1 (7) The term "municipality" shall mean any county, city,
2 town, borough or township of the Commonwealth of Pennsylvania,
3 or any authority organized under any law of the Commonwealth of
4 Pennsylvania.

5 (8) The term "Federal agency" shall mean and include the
6 United States of America, the President of the United States and
7 any department or corporation, agency or instrumentality,
8 heretofore or hereafter created, designated or established by
9 the United States of America.

10 (9) The term "improvement" shall mean and include extension,
11 enlargement and improvement, and the term "to improve" shall
12 mean and include to extend, to enlarge and to improve all in
13 such manner as shall be deemed desirable.

14 (10) The term "persons" shall mean and include natural
15 persons.

16 (11) The term "port terminal" shall include any marine,
17 motor truck, railroad and air terminal, also any coal, grain,
18 bulk liquids and lumber terminal and any union, freight and
19 other terminals, used or to be used, in connection with the
20 transportation or transfer of freight and equipment, materials
21 and supplies.

22 (12) The term "port facility" shall include all real and
23 personal property used in the operation of a port terminal,
24 including, but without being limited to, wharves, piers, slips,
25 ferries, docks, drydocks, ship repair yards, bulkheads, dock
26 walls, basins, carfloats, float-bridges, dredging equipment,
27 radio receiving and sending stations, grain or other storage
28 elevators, warehouses, cold storage, tracks, yards, sheds,
29 switches, connections, overhead appliances, bunker coal, oil and
30 fresh water stations, railroads, motor trucks, floating

1 elevators, airports, barges, scows or harbor craft of any kind,
2 markets and every kind of terminal storage or supply depot, now
3 in use or hereafter designed for use, to facilitate
4 transportation and for the handling, storage, loading or
5 unloading of freight at terminals, and equipment, materials and
6 supplies therefor.

7 (13) The term "transportation system" shall mean all
8 property, real and personal, useful for the transportation of
9 passengers for hire, including but not limited to power plants,
10 substations, terminals, garages, bridges, tunnels, subways,
11 monorails, railroad motive power, trains, railroad passenger
12 cars, and equipment, belt conveyors, inclines, car barns, street
13 cars, buses, rails, lines, poles, wires, off-street parking
14 facilities, as well as the franchises, rights and licenses
15 therefor, including [rights to provide], but not limited to, the
16 right to provide, directly or through contract, transportation
17 or transportation services for any elderly, handicapped or
18 Americans with Disabilities Act (ADA)-eligible persons or group
19 and party services: Provided, That such term shall not include
20 taxicabs or bus companies, the main purpose of which is the
21 transportation of children to and from school.

22 (14) The term "facility" shall mean port facility and
23 transportation system.

24 (15) The term "local authorities" shall mean the officers of
25 a municipality, elected or appointed, authorized to consent to
26 the use of the municipality's streets, highways, bridges and
27 tunnels and to enter into agreements relative to such use with
28 the port authority.

29 (16) The term "Public Utility Commission" shall mean the
30 Public Utility Commission of the Commonwealth of Pennsylvania,

1 created by the act of March 31, 1937 (P.L.160).

2 (17) The term "service area" shall mean the entire county
3 incorporating the authority and those portions of adjacent
4 counties necessary to permit the authority (i) to acquire
5 [existing] a transportation [systems, eighty per centum of whose
6 revenue vehicle miles for the preceding calendar year are
7 operated within the incorporating county] system, at a price and
8 in a manner deemed reasonable by an authority; (ii) to acquire
9 by purchase only and not by exercise of the right of eminent
10 domain other existing transportation systems or parts thereof
11 which, in the authority's sole discretion, are required for the
12 establishment of [an integrated] a system; (iii) to establish
13 transit service between points in the county incorporating the
14 authority and points in the adjacent counties where no such
15 service is at the time being rendered and which service the
16 authority, in its sole discretion, has determined to be
17 required: Provided, however, That no such service shall be
18 established without the consent of the affected adjacent county
19 nor without participation of such county in the payment of the
20 cost of establishing and maintaining such service; and (iv) to
21 establish rapid transit facilities over jointly used or
22 exclusive fixed rights of way.

23 Section 4. Section 3 of the act, amended October 7, 1959
24 (P.L.1266, No.429), December 30, 1970 (P.L.953, No.300) and July
25 9, 1992 (P.L.700, No.104) and repealed in part June 3, 1971
26 (P.L.118, No.6), is amended to read:

27 Section 3. (a) There [are hereby created bodies] is created
28 in each county of the second class a body corporate and politic
29 [in counties of the second class], to be known as Port Authority
30 of (insert name of county), which shall [constitute public

1 bodies corporate and politic; exercising] exercise the public
2 powers of the Commonwealth as an agency thereof. [Each
3 authority] An authority created under this section shall be for
4 the purpose of planning, acquiring, holding, constructing,
5 improving, maintaining and operating, owning, leasing, either as
6 lessor or lessee, port facilities within the port district of
7 the county by which it is incorporated, and a transportation
8 system in the county by which it is incorporated and outside of
9 the county to the extent necessary for (i) the establishment of
10 [an integrated] a transportation system; (ii) the establishment
11 of additional transit service where none at the time is being
12 otherwise rendered; (iii) the establishment of rapid transit
13 facilities over jointly used or exclusive fixed rights of way
14 and (iv) the rendering of [all] group and party services [which
15 can be provided by transportation systems subject to acquisition
16 under this act pursuant to certificates of public convenience
17 issued them by the Pennsylvania Public Utility Commission].

18 (b) [Each authority is hereby granted and] An authority
19 shall have and may exercise all powers necessary or convenient
20 for the carrying out of the aforesaid purposes, including but
21 without limiting the generality of the foregoing, the following
22 rights or powers:

23 (1) To have perpetual existence.

24 (2) To sue and be sued, implead and be impleaded, complain
25 and defend in all courts, to petition the Interstate Commerce
26 Commission (or like body) or join in any proceeding before any
27 such bodies or courts in any matter affecting the operation of
28 any project of the authority.

29 (3) To adopt and use and alter at will a corporate seal.

30 (4) To establish a principal office and such other office or

1 offices as may be necessary for the carrying on of its duties.

2 (5) To acquire, purchase, hold, lease as lessee and use any
3 franchise, property, real, personal or mixed, tangible or
4 intangible, or any interest therein, necessary or desirable for
5 carrying out the purposes of the authority, and to sell, lease
6 as lessor, transfer and dispose of any property, or interest
7 therein, at any time, required by it. In exercising the power
8 granted by this subsection, the authority shall consider the
9 same value factors as provided in section 7 of this act in
10 determining compensation under the exercise of eminent domain.

11 (6) To acquire by purchase, lease, or otherwise, and to
12 construct, improve, maintain, repair and operate facilities.

13 (6.1) To construct, improve, maintain, repair and operate
14 high-occupancy vehicle lanes that are incorporated into and are
15 made part of an authority facility.

16 (7) To make by-laws for the management and regulation of its
17 affairs.

18 (8) To appoint officers, agents, employes and servants, to
19 serve at the pleasure of the board (except as may otherwise be
20 provided in collective bargaining agreements) and to prescribe
21 their duties and fix their compensation: Provided, however, That
22 the authority may bind itself by contract to employ an executive
23 director, a general manager or a combined executive director and
24 general manager and not more than five other senior executive
25 personnel but no such contract shall be for a period of more
26 than five years.

27 (9) To fix, alter, charge and collect fares, rates, rentals
28 and other charges for its facilities by zones or otherwise at
29 reasonable rates to be determined exclusively by it, subject to
30 appeal, as hereinafter provided, for the purpose of providing

1 for the payment of the expenses of the authority, the
2 acquisition, construction, improvement, repair, maintenance and
3 operation of its facilities and properties, the payment of the
4 principal and interest on its obligations, and to comply fully
5 with the terms and provisions of any agreements made with the
6 purchasers or holders of any such obligations. The authority
7 shall determine, by itself exclusively, the facilities [to be
8 operated by it] and the services to be [available to the public]
9 operated by it. Any person questioning the reasonableness of any
10 rate or services fixed by an authority may bring suit against
11 the authority in the court of common pleas of the county
12 incorporating the authority. The court of common pleas shall
13 have exclusive jurisdiction to determine the reasonableness of
14 fares, rates and other charges or services fixed, altered,
15 charged or collected by an authority. The court shall make such
16 order as to fares, rates and other charges or services as to it
17 shall be just and proper.

18 (10) To borrow money, make and issue negotiable notes,
19 bonds, refunding bonds and other evidences of indebtedness or
20 obligations of the authority, and to secure the payment of such
21 bonds, or any part thereof, by pledge or deed of trust of all or
22 any of its revenues, rentals and receipts, and to make such
23 agreements with the purchasers or holders of such bonds or with
24 others in connection with any such bonds, whether issued or to
25 be issued as the authority shall deem advisable and in general,
26 to provide for the security for said bonds and the rights of the
27 holders thereof.

28 (11) To make contracts of every name and nature, and to
29 execute all instruments necessary or convenient for the carrying
30 on of its business. Without limiting the generality of the

1 foregoing, the authority is authorized to enter into contracts
2 for the purchase, lease, operation or management of facilities
3 subject to the jurisdiction of the Interstate Commerce
4 Commission.

5 (12) Without limitation of the foregoing, to borrow money
6 and accept grants from and to enter into contracts, leases or
7 other transactions with any Federal agency, Commonwealth of
8 Pennsylvania, municipality or corporation.

9 (13) To have the power of eminent domain.

10 (14) To pledge, hypothecate, or otherwise encumber, all or
11 any of the revenues or receipts of the authority as security for
12 all or any of the obligations of the authority.

13 (15) To do all acts and things necessary for the promotion
14 of its business, and the general welfare of the authority to
15 carry out the powers granted to it by this act or any other
16 acts.

17 (16) To enter into contracts with the Commonwealth of
18 Pennsylvania, municipalities or corporations, on such terms as
19 the authority shall deem proper for the use of any facility of
20 the authority, and fixing the amount to be paid therefor.

21 (17) To enter into contracts of group insurance for the
22 benefit of its employes, or to continue in existence any
23 existing insurance and/or pension or retirement system and/or
24 any other employe benefit arrangement covering employes of an
25 acquired [existing] transportation system, and/or to set up a
26 retirement or pension fund or any other employe benefit
27 arrangement for such employes.

28 (18) An authority shall have no power, at any time or in any
29 manner, to pledge the credit or taxing power of the Commonwealth
30 of Pennsylvania or any political subdivision, nor shall any of

1 its obligations be deemed to be obligations of the Commonwealth
2 of Pennsylvania or of any of its political subdivisions, nor
3 shall the Commonwealth of Pennsylvania or any political
4 subdivision thereof be liable for the payment of principal or
5 interest on such obligations.

6 (19) Private rights and property in the beds of existing
7 public highways vacated in order to facilitate the purposes of
8 the authority shall not be deemed destroyed or ousted by reason
9 of such vacation, but shall be acquired or relocated by the
10 authority in the same manner as other property.

11 (20) To have the right to use any public road, street, way,
12 highway, bridge or tunnel for the operation of a transportation
13 system within the service area of its [integrated] system as set
14 forth in the authority's plan of integrated operation as
15 provided in section 13.1 hereof: Provided, That in the case of
16 street railway or trolley coach facilities or pole and wire
17 facilities or overhead structures, such right shall not be
18 exercised within the limits of any county, city, borough or
19 township, without the consent of the local authorities thereof
20 and/or the [State Highway] Department of Transportation, which
21 consent shall not be unreasonably withheld and cannot be
22 conditioned upon the payment of any bridge tolls or license
23 fees, notwithstanding any existing agreements with the
24 predecessor company or individual; and to enter into agreements
25 with and accept franchises and licenses from such cities,
26 boroughs and townships for such use.

27 (21) To establish such carrier routes as it deems necessary
28 for the efficient operation of the transportation system owned
29 [or otherwise acquired] by it under the terms of this act,
30 subject to any limitations herein provided for; and to alter and

1 vary and discontinue such carrier routes at its discretion.

2 (22) To self insure or otherwise provide for the insurance
3 of any property or operations of the authority against any risks
4 or hazards.

5 (23) To lease property or contract for service, including
6 managerial and operating service, whenever it in its sole
7 discretion determine that it can more efficiently and
8 effectively serve the public by so doing, rather than conducting
9 its own operations with its own property or employes.

10 (24) To form plans for the improvement of public mass
11 transportation in order to promote the economic development of
12 the service area in which the authority operates; [to make
13 recommendations concerning mass transportation facilities which
14 the authority does not own or operate;] to make recommendations
15 concerning throughways and arterial highway connections to the
16 [Department of Highways] department and to other appropriate
17 governmental bodies; and otherwise to cooperate with all such
18 governmental bodies.

19 (25) To enter into agreements with any public utility
20 operating a railroad or any other public or private
21 transportation facility or common carrier wholly or partially
22 located or providing transportation services within the service
23 area for the joint or exclusive use of any property of the
24 entity, the authority or the public utility or the establishment
25 of through routes over the rights of way of the entity, the
26 public utility or the authority or the establishment of joint
27 fares and transfer of passengers.

28 (26) To develop programs designed solely to advertise,
29 promote and stimulate the development and use of its port
30 facility and transportation system and to join and to authorize

1 its agents, employes and servants to join national and local
2 trade and professional organizations organized for the purpose
3 of promoting the betterment of port facilities and
4 transportation systems and the improvement of the efficiency of
5 persons connected with or employed by port facilities and
6 transportation systems.

7 (27) Notwithstanding any other provision of law, to contract
8 with any third party for the allocation of liability for any and
9 all claims, actions, suits or damages, whether for compensatory
10 or punitive damages, arising against a third party or the
11 authority in connection with any accident or incident related to
12 the operations conducted by or on behalf of or authorized by the
13 authority or a third party, on property owned by the authority
14 or on property owned by a third party and adjacent to the
15 authority's property. If a third party asserts against the
16 authority any claim relating to liability that the authority,
17 pursuant to contract, has assumed, such claim may, to the extent
18 provided in this clause, result in the imposition of liability
19 on the authority, and the defense of sovereign immunity as
20 provided in 42 Pa.C.S. Ch. 85 Subch. B (relating to actions
21 against Commonwealth parties) shall not be raised by the
22 authority in connection therewith. The aggregate of liability
23 for all claims, actions, suits or damages, whether for
24 compensatory or punitive damages, that may be asserted against
25 and imposed upon such third party and which the authority,
26 pursuant to such contract, has assumed shall not exceed the
27 limits of the liability insurance coverage maintained by the
28 authority in connection with such assumed obligations, which
29 insurance coverage shall not be less than ten million dollars.
30 The authority shall be entitled to obtain and maintain insurance

1 coverage in amounts deemed by the authority to be necessary or
2 desirable and to name such third party as an additional named
3 insured on any insurance policies relating thereto.

4 Section 5. Section 6 of the act, amended June 18, 1999
5 (P.L.72, No.11), is amended to read:

6 Section 6. Subject to the provisions of section 6.1, the
7 powers of [the] an authority shall be exercised by a board,
8 composed of the number of members, not more than nine, [one of
9 whom shall at all times be a member of the county council
10 appointed by the county executive,] as shall be fixed by the
11 county council of [each county of the second class. The county
12 executive of each county of the second class] the county where
13 the authority is located. The county executive of that county
14 shall appoint the members of the board, one of whom shall at all
15 times be a member of the county council, all of whom shall be
16 residents of such county and citizens of the United States,
17 whose terms of office shall commence on the date of appointment,
18 one member shall serve for one year, one for two years, one for
19 three years, and one for four years, and one for five years,
20 from the first day of January next succeeding the date of
21 approval of this act, and terms of other members shall be
22 staggered in a similar manner but in no instance shall exceed
23 five years. Thereafter, whenever a vacancy has occurred or is
24 about to occur by reason of the expiration of the term of any
25 member, the county executive shall appoint a member for a term
26 of five years to succeed the member whose term has expired or is
27 about to expire. Members shall hold office until their
28 successors have been appointed, and may succeed themselves. A
29 member shall receive such compensation for his services as the
30 county executive shall determine and shall be entitled to the

1 necessary expenses, including traveling expenses incurred in the
2 performance of his duties. Within ninety days after the creation
3 of the authority, the board shall meet and organize by electing
4 from their number a chairman, a vice chairman, and such other
5 officers as the board may determine. The board may employ a
6 secretary, an executive director, its own counsel and legal
7 staff and such technical experts and other agents and employes,
8 permanent or temporary, as it may require, and may determine the
9 qualifications and fix the compensation of such persons. Six
10 members of the board shall constitute a quorum for its meetings.
11 Members of the board shall not be liable personally on the bonds
12 or other obligations of the authority, and the rights of
13 creditors shall be solely against [such] the authority. The
14 board may delegate to one or more of its agents or employes such
15 of its powers as it shall deem necessary to carry out the
16 purposes of this act, subject always to the supervision and
17 control of the board. The board shall have full authority to
18 manage and operate the business of the authority and to
19 prescribe, amend and repeal by-laws, rules and regulations
20 governing the manner in which the business of the authority may
21 be conducted and the powers granted to it may be exercised and
22 embodied. Copies of such by-laws, rules and regulations shall be
23 filed with the county council of the county [incorporating the
24 authority]. A member may be removed for cause by the court of
25 common pleas of the county in which the authority is located
26 after having been provided with a copy of the charges against
27 the member for at least ten days and a full hearing by the
28 court.

29 If a vacancy occurs by reason of the death, resignation or
30 removal of a member, the county executive shall appoint a

1 successor to fill the unexpired term.

2 Section 6. Section 7.1 of the act, added October 7, 1959
3 (P.L.1266, No.429), is amended to read:

4 Section 7.1. [The] An authority shall exercise its power of
5 eminent domain in the manner prescribed by the provisions of
6 Article XXVI. of the act of July 28, 1953 (P.L.723), known as
7 the "Second Class County Code," except as such provisions are in
8 conflict with the provisions of this section: Provided, That no
9 property owned or used by the United States, the Commonwealth of
10 Pennsylvania, any political subdivision thereof, or any body
11 politic and corporate organized as an "authority" under any law
12 of the Commonwealth or by any agency of any of them, nor any
13 property used by a public utility other than a transportation
14 system, nor any common carrier subject to the jurisdiction of
15 the Interstate Commerce Commission or the Public Utility
16 Commission, nor any property used for burial purposes or places
17 of public worship, shall be taken under the right of eminent
18 domain.

19 In case the authority shall repeal any resolution passed or
20 discontinue any proceeding taken with respect to the exercise of
21 its right of eminent domain prior to the entry upon, taking,
22 appropriation or injury to any property, the authority shall not
23 thereafter be liable to pay any damages which have been or might
24 have been assessed, but all costs and expenses upon any
25 proceeding had thereon shall be paid by the authority together
26 with any actual damage, loss or injury sustained by reason of
27 such proceeding.

28 In ascertaining, assessing and determining the amount of
29 compensation or damages to be paid by the authority, the board
30 of viewers may determine every fact, matter or thing, which in

1 its judgment does or may have any bearing on the fair amount of
2 the compensation. The factors thus to be taken into account
3 shall include, among other things, the gross annual revenue, the
4 original cost of construction, with particular reference to the
5 amount expended in existing and useful permanent improvements,
6 with such consideration for the amount in market value of the
7 owner's bonds and stocks, if the owner be a corporation, as to
8 the board of viewers may seem just and fair; the probable
9 earning capacity of the property under particular rates
10 prescribed by statute or ordinance or other municipal contract
11 or fixed by any regulatory body; and for the items of
12 expenditures for obsolete equipment and construction as the
13 circumstances and historical development of the properties may
14 warrant. The reproduction cost of the property based upon the
15 fair average price of materials, property and labor, and the
16 development and going-concern value of such properties,
17 facilities, and franchises, any element of delay under these
18 proceedings, and other elements of value, shall be given such
19 weight by the board of viewers as may, in its judgment, be just
20 and right in each case, as in other matters involving the
21 valuation of properties and facilities devoted to the public
22 service and coming before the said board of viewers for
23 determination. The determination of the board of viewers shall
24 award compensation or damages to each owner separately, and, in
25 case any owner is also the lessee of the properties, facilities
26 and franchises of any other company whose properties, facilities
27 or franchises are acquired or to be acquired hereunder, the
28 total amount awarded with respect thereto shall be apportioned
29 between the owner or owners of such properties, facilities and
30 franchises and any person or persons, company or companies,

1 having an interest therein by virtue of any such lease or series
2 of leases, the purpose of this provision being that the gross
3 amount of damages or compensations, ascertained and determined
4 as hereinabove provided, shall be distributed among those
5 rightfully entitled thereto in such manner as may be just and
6 equitable, having in view their respective interests therein.

7 When the authority exercises its right of eminent domain, it
8 shall, prior to taking possession of the property, pay into the
9 court of common pleas of the county in which said authority is
10 [created] located in the manner to be provided by the rules of
11 court, a sum equal to seventy-five per centum (75%) of the
12 amount estimated by it as the damages which will result from
13 such exercise. Upon such payment into court, the authority shall
14 have the right to immediate possession of the property and the
15 authority shall be relieved of all obligation to see to the
16 application or distribution of said money paid into court. The
17 court shall direct the payment of said sum of money to the
18 person or persons entitled thereto upon petition and proof of
19 such entitlement and upon such conditions, including the filing
20 of a refunding bond, as the court shall, by general or special
21 rule, provide.

22 Any payments made pursuant to this act shall be credited upon
23 the award or verdict and final judgment, provided such award and
24 judgment is in a greater amount. Any payment made in excess of
25 the award and verdict and final judgment shall be refunded to
26 the authority. Detention damages and interest on the award of
27 damages shall be limited to the amount, if any, by which the
28 amount of money paid into court, as hereinabove required, is
29 less than the award or verdict and final judgment.

30 Section 7. Section 13 of the act, amended March 20, 1963

1 (P.L.5, No.3) and December 30, 1970 (P.L.953, No.300), is
2 amended to read:

3 Section 13. Any municipality or owner is hereby authorized
4 to sell, lease, lend, grant, transfer or convey to [the] an
5 authority, with or without consideration, any facility or any
6 part or parts thereof, or any interest in real or personal
7 property which may be used by the authority in the construction,
8 improvement, maintenance or operation of any facility. Any
9 municipality is also authorized to transfer, sell, assign and
10 set over to the authority any contracts which may have been
11 awarded by such municipality for the construction of facilities
12 not begun, or if begun, not completed. Any county of the second
13 class is hereby empowered to issue general obligation or non-
14 debt revenue bonds for the purpose of providing funds for the
15 acquisition, construction or improvement of any facility. Any
16 county of the second class may and it is hereby authorized to
17 make grants or loans from current revenues or the proceeds of
18 general obligation bonds to the authority to assist in defraying
19 the costs of any demonstration, test or experimental projects,
20 and the costs of studies in preparation of a plan of integrated
21 operation and for the operation, maintenance and debt service of
22 any facility and to enter into long term agreements providing
23 for the payment of such grants.

24 Any county wherein any part of a transportation system [as]
25 established by an authority created under this act is operating
26 or is proposed to operate is hereby empowered (i) to issue
27 general obligation bonds for the purpose of providing funds for
28 the acquisition, construction or improvement of the
29 transportation system; (ii) to make grants or loans from current
30 revenues or the proceeds of general obligation bonds to the

1 authority to assist in defraying the cost of any demonstration
2 test or experimental projects and the cost of studies in
3 preparation of a plan of [integrated] operation and the
4 improvement of the transportation system and for the operation,
5 maintenance and debt service of the transportation system and to
6 enter into long term agreements with the authority and with one
7 or more other counties served by the transportation system
8 providing for the payment of such grants.

9 Section 8. Section 13.1 of the act, amended or added October
10 7, 1959 (P.L.1266, No.429), March 20, 1963 (P.L.5, No.3) and
11 December 30, 1970 (P.L.953, No.300), is amended to read:

12 Section 13.1. [The] An authority, immediately upon its
13 organization, shall commence its study of [an integrated] a
14 system of [mass] transportation within the service area. Such
15 study shall include, but not be limited to the estimated cost of
16 acquisition of existing transportation systems, the development
17 of facilities, the estimates of revenues and the financial
18 feasibility of [an integrated] a system of [mass]
19 transportation. Thereafter, the authority shall prepare a plan
20 of [integrated] operation showing the service area and the
21 pattern of its [integrated] system. The plan of [integrated]
22 operation shall be submitted for approval to the [board of
23 county commissioners of the county incorporating the authority]
24 county council of the county where the authority is located, and
25 simultaneously, the authority shall submit to the [board of
26 county commissioners] county council the recommendation of the
27 authority on the plan of [integrated] operation, and a schedule
28 disclosing estimated cost of acquisition of existing
29 transportation systems, estimates of revenue and expenditures
30 for the proposed plan of [integrated] operation, and the

1 proposed method of financing the acquisition and the plan of
2 [integrated] operation. The [board of county commissioners]
3 county council shall advertise the fact that the plan of
4 [integrated] operation has been submitted and is available for
5 public inspection at least once each week for two consecutive
6 weeks in a newspaper of general circulation in the county where
7 the authority is located: Provided, That no action may be taken
8 by the [board of county commissioners] county council until the
9 plan of [integrated] operation has been on file in the office of
10 the county [commissioners] council and available for public
11 inspection for a period of at least thirty days following the
12 date of publication of the second notice. The [board of county
13 commissioners] county council may approve or reject the plan of
14 [integrated] operation as submitted or, at any time thereafter,
15 direct the authority to revise the original plan of [integrated]
16 operation. In the event of a revision of the original plan of
17 [integrated] operation, such revised plan of [integrated]
18 operation shall be resubmitted to the [board of county
19 commissioners] county council and shall be acted upon in the
20 same manner as herein provided in the case of the submission by
21 the authority of the original plan of [integrated] operation.
22 Prior to approving or rejecting the plan of [integrated]
23 operation or revised plan of [integrated] operation, the [board
24 of county commissioners] county council may submit the question
25 of approval of such plan or revised plan of [integrated]
26 operation for referendum at any general, municipal or primary
27 election. In the event of a referendum, the question shall be
28 submitted on the ballot or on voting machines in the manner
29 provided by the election laws of the Commonwealth and shall be
30 in substantially the following form:

1 Shall the [board of county commissioners]
2 county council of County approve Yes.....
3 the [integrated] plan of operation of a
4 [mass] transportation system submitted No.....
5 under the provisions of the Second Class
6 County Port Authority Act?

7 The referendum on this question shall be governed in all
8 respects by the election laws of the Commonwealth in so far as
9 they are applicable. Upon final approval by the [board of county
10 commissioners] county council, the original or revised plan of
11 [integrated] operation shall be recorded in the office of the
12 recorder of deeds of the county or counties affected thereby and
13 a copy of said plan of [integrated] operation shall also be
14 filed with the [Pennsylvania] Public Utility Commission. The
15 authority shall, thereafter, have the right to make such changes
16 in the pattern of its [integrated] transportation system and its
17 service area as it may deem proper, subject to appeal to the
18 court of common pleas in the same manner as provided for in
19 clause (9) of subsection (b) of section 3 of this act, by
20 adopting an amendment to the plan of [integrated] operation or
21 service area and filing and recording the same in the office of
22 the recorder of deeds and with the [Pennsylvania] Public Utility
23 Commission as above provided. The authority shall not have power
24 to acquire by purchase, condemnation or otherwise, any existing
25 transportation systems, or engage in the operation of a
26 transportation system as provided under this act, until it has
27 met the requirements for recording and filing of the plan of
28 integrated operation as provided herein: Provided, however, That
29 the authority may enter into option agreements with any existing
30 transportation systems for the purchase, lease or operation

1 thereof, subject to the final approval of the plan of
2 [integrated] operation by the [board of county commissioners]
3 county council: Provided further, That nothing in this section,
4 including the foregoing proviso clause, shall prevent, limit,
5 restrict or interfere with in any way an undertaking or joining
6 by the authority of any demonstration, test or experimental
7 project relevant to, and necessary for, the establishment of an
8 integrated transportation system or of any demonstration, test
9 or experimental project that may be required, or advisable, to
10 establish the feasibility of [an integrated] a transportation
11 system.

12 Upon the recording of the plan of [integrated] operation, any
13 law to the contrary notwithstanding, the authority shall have
14 exclusive jurisdiction with respect to all matters regarding its
15 transportation system within the service area as set forth in
16 the plan of operation or as from time to time changed as in this
17 section provided[. The Public Utility Commission shall have no
18 authority to grant certificates of public convenience for a
19 transportation system within the service area of the authority
20 or for the establishment of group and party rights to operate
21 wholly within such service area. The Public Utility Commission
22 shall continue to have jurisdiction, except as otherwise
23 provided in this section, with respect to all matters regarding
24 those transportation systems and group and party rights to
25 operate into or out of said service area.

26 The authority shall have the exclusive right to operate a
27 transportation system within the service area as set forth in
28 the plan of integrated operation, except for those
29 transportation systems operating into the said service area from
30 points outside of said area, which companies shall have the

1 right to pick up and discharge passengers destined to and from
2 the territory outside of said area but not the right to pick up
3 and discharge passengers entirely within the service area. Said
4 excepted transportation systems by agreement with the authority
5 may arrange for the pick up and discharge of passengers within
6 the said service area when, in the opinion of the authority,
7 such privilege will serve the purpose for which the authority
8 was created. The authority may, also by agreement with an
9 existing transportation system now servicing the said service
10 area, permit a continuation of such services where, in the
11 opinion of the authority, such privilege will serve the purpose
12 for which the authority was created. In the event no such
13 agreement is entered into between the excepted transportation
14 systems and the authority prior to the authority commencing to
15 operate a mass transportation system in the service area, the
16 authority shall be liable for all direct and consequential
17 damages for any loss in value of the remaining portions of the
18 system arising from the loss of the right to pick up and
19 discharge passengers entirely within the service area.

20 The authority shall, within two years after approval by the
21 board of county commissioners and the recording and filing of
22 the plan of integrated operation in the office of the recorder
23 of deeds and with the Pennsylvania Public Utility Commission as
24 hereinabove provided, acquire by purchase, lease or eminent
25 domain, or shall enter into an operation contract with all
26 transportation systems operating entirely within the county in
27 which the authority is created or eighty per centum of whose
28 revenue vehicle miles for the preceding calendar year are
29 operated within said county, except those transportation systems
30 subject to the jurisdiction of the Interstate Commerce

1 Commission: Provided, That the court of common pleas of the
2 county in which such authority is created may, upon cause shown,
3 extend the two-year period hereinbefore mentioned: And
4 provided,]: Provided, That if the authority shall at any time
5 desire to abandon or change any portion of a transportation
6 system outside the territorial limits of the county
7 incorporating the authority, the approval for such abandonment
8 or change must be secured by the authority from the
9 [Pennsylvania] Public Utility Commission[: And provided further,
10 That all].

11 All group and party services provided by the authority
12 outside the service area under rights acquired by it pursuant to
13 this act shall be subject to the regulation by the
14 [Pennsylvania] Public Utility Commission.

15 Section 9. The act is amended by adding sections to read:

16 Section 13.6. Notwithstanding any other provision of this
17 act, the Public Utility Commission shall have sole and exclusive
18 jurisdiction over an entity other than an authority created
19 under this act which seeks to provide transportation services
20 within a service area if the transportation services would
21 otherwise be subject to the jurisdiction of the Public Utility
22 Commission.

23 Section 13.7. Within one year of the effective date of this
24 section and by March 31 of each year thereafter, each authority
25 created under this act shall file a report with the Consumer
26 Protection and Professional Licensure Committee of the Senate,
27 the Transportation Committee of the Senate, the Consumer Affairs
28 Committee of the House of Representatives and the Transportation
29 Committee of the House of Representatives concerning at least
30 all of the following:

- 1 (1) The budget of the authority.
- 2 (2) The annual aggregate revenues of the authority.
- 3 (3) The number of employes of the authority.
- 4 (4) The status of any labor agreement or negotiations.
- 5 (5) The annual aggregate revenue generated by transportation
6 service provided by the authority.
- 7 (6) The annual aggregate ridership of the transportation
8 service provided by the authority.
- 9 (7) The annual revenues of each transportation service
10 provided by the authority.
- 11 (8) The annual ridership of each transportation service
12 provided by the authority.
- 13 (9) The annual aggregate revenue generated by port
14 activities provided by the authority.
- 15 (10) The annual aggregate use of port activities provided by
16 the authority.

17 Section 10. This act shall take effect in 60 days.